



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-705-10 et seq.
Regulation Title:	Child Protective Services
Action Title:	Implement Differential Response
Date:	October 10, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

These amendments to the CPS regulations are needed in order to make permanent the emergency regulations that were required by legislation enacted by the General Assembly 2000. The emergency regulations were intended to provide guidance to local departments of social services as they implement statewide a child protective services differential response system that has been piloted in five localities over the past three years.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory authority for promulgating this regulation is found in Title 63.1 Welfare (Social Services) of the Code of Virginia. Chapter 12.1, § 63.1-248 et seq. of the Virginia Code places

responsibility for providing protective services for children with the Department of Social Services. Chapter 1, § 63.1-25 places authority with the Board of Social Services to make rules and regulations consistent with the Virginia Code § 63.1-248.1 et seq. These regulations are necessitated by legislation enacted by the 2000 General Assembly session.

The Office of the Attorney General has reviewed these regulations and has certified that the agency has the statutory authority to promulgate emergency regulations and that they comport with applicable state and federal laws.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

- Overall: Changes to language are made wherever needed to incorporate family assessment as a response to a valid CPS report.
- Section 10: Provides definitions for “differential response” and “family assessment.” (The definition of family assessment can easily be compared to investigation to see what is similar and different about these processes.)
- Section 50: Requires an additional decision at intake: which response to make to each report - an investigation or family assessment.
- Section 50E: Encourages memoranda of understanding between local social services agencies and law enforcement agencies.
- Section 50H: Clarifies when an investigation is the required response.
- 50H2: Delineates the purpose of a family assessment.
- 60 - 3b: Requires reassignment of a family assessment to investigation if the agency takes emergency custody of the child.
- 70B: Emphasizes collaboration with the family in family assessments.
- 80B: Outlines required contacts to be made by the local agency when completing family assessments.
- 120D & E, 140B5 & D3: These sections address required notifications for family assessments.
- 140C3: Allows a child's name to be removed from the central registry in situations where the abuse occurred in a designated out of family setting and the parent or guardian was not the abuser.
- 180C: Requires local staff to receive training in order for the agency to become “designated” as a differential response agency.

This regulatory action is intended to promote the safety and well being of children within their families in Virginia. Until the enactment of this legislation all valid reports of child abuse or neglect had to be investigated and a finding made as to abuse or neglect by an alleged abuser. The new legislation and these regulations allow for a response to valid reports of less serious abuse or neglect that is less adversarial and more likely to engage families in services, if needed, to protect their own children. These regulation changes, except for 140C3, are only those required by legislation to implement differential response. The additional regulation is in order to comply with HB 935, which became effective July, 2000.

These permanent final regulations have been developed to provide for the statewide implementation of a differential response system. This Notice of Intended Regulatory Action (NOIRA) is to replace the emergency regulations and provide one additional regulation as noted.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Reform to the child protective services program is occurring across the nation. Virginia has looked at what other states are doing and has piloted reforms in five Virginia localities for the past five years. The current plan for implementing a differential response for child protective services appears to be the least intrusive and least burdensome method to meet the dual purpose of protecting children and supporting families whenever possible.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The implementation of these permanent regulations will allow for a less adversarial response to families when there are less serious allegations of child abuse or neglect. It was determined through evaluation of the pilots that families receiving family assessments, rather than investigations, felt more comfortable describing their needs related to keeping their children safe and more receptive to services to enable them to better care for their children. Thus, these regulations to support differential response, as well as the regulation to allow parents to request their child's name be removed from the central registry under certain conditions, strengthen the authority and rights of parents to nurture and supervise their children. The regulations encourage and support self-sufficiency, self-pride, and assumption of responsibility for one's children. They are not expected to significantly impact marital commitment or family income.